



## Arkansas Department of Community Correction

Two Union National Plaza Building

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Little Rock, Arkansas 72201-5731

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*"Service with Excellence  
& Integrity"*

### **ADMINISTRATIVE DIRECTIVE: 07-11**

### **RAPE ELIMINATION**

**TO: DEPARTMENT OF COMMUNITY CORRECTION (DCC) EMPLOYEES**

**FROM: G. DAVID GUNTARP, DIRECTOR**

**SUPERSEDES: AD 06-12**

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**APPROVED:** Signature on File

**EFFECTIVE: JUNE 11, 2007**

**I. APPLICABILITY.** This policy applies to DCC employees, offenders under DCC supervision who have been in jail and/or prison, volunteers and medical staff.

**II. POLICY.** It is DCC policy to comply with the Prison Rape Elimination Act (PREA) by maintaining a standard of zero tolerance of prohibited sexual acts in DCC residential and licensed transitional housing facilities; by protecting the eighth amendment right of residents; by providing a safe, humane, and secure environment free from the threat of prohibited sexual acts. DCC will establish and maintain training programs that address prevention, detection, response, investigation, and cooperation in prosecution.

### **III. DEFINITIONS.**

**A. Carnal Knowledge.** Contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

**B. Oral Sodomy.** Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

- C. Prohibited Sexual Act.** Rape, as defined by the Prison Rape Elimination Act (PREA), of an offender under community supervision, in DCC custody, or housed in a transitional housing facility as a conditional release from the Arkansas Department of Correction (ADC.)
- D. Rape.** The carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will, also where the victim is incapable of giving consent because of his/her youth or temporary or permanent mental or physical incapacity; or, the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.
- E. Sexual Assault with an Object.** The use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.
- F. Sexual Fondling.** The touching of the private body parts of another person including the genitalia, anus, groin, breast, inner thigh, or buttocks for the purpose of sexual gratification.
- G. Victim Support Person.** A counselor assigned and designated to support an alleged victim during the investigation of an alleged sexual assault.

#### **IV. PROCEDURES.**

##### **A. Employee Training.**

1. Supervisors must ensure new DCC employees receive training related to prohibited sexual acts between offenders and/or between offenders and staff. Training must ensure staff understands their obligation to report prohibited sexual acts as well as prevention, detection, response, penalties, investigation of alleged prohibited sexual acts.
2. All DCC supervisors must ensure the provision of annual staff training on prohibited sexual acts, including how to accept and process reports of prohibited sexual acts.
3. Lesson plans and/or materials used for training residents and staff must follow the same approval process as for employee training, as described in the Employee Training policy.

## **B. DCC Residential Facilities.**

1. During orientation, new residents must receive oral and written information about prohibited sexual acts specifically concerning prevention, self-protection, reporting, treatment and counseling, and consequences. Provisions must be made as appropriate for non-English speaking and disabled residents, and residents with low literacy levels.
2. The Center Supervisor must designate and make appropriate arrangements for an employee to support alleged victims during the investigation of an alleged prohibited sexual act with or by a resident.
3. The Center Supervisor must ensure a visual inspection of the facility design at least annually to detect and eradicate places that would increase the likelihood for prohibited sexual acts.
4. Counselors must conduct initial mental health screening to include a review of any history of sexual abuse victimization or sexually predatory behavior. When a resident is considered to be substantially at risk of being victimized or an aggressor, notify the treatment coordinator and senior residential supervisor.
5. The Senior Residential Supervisor must ensure a resident who is considered to be substantially at risk of being victimized or an aggressor has housing and job assignments that minimize opportunities for prohibited sexual acts. The supervisor will review and make appropriate changes to reduce possibilities of prohibited sexual acts, while enforcing the resident conduct policy.
6. Reporting Prohibited Sexual Acts.
  - a. Prohibited Sexual Act at a Non-DCC Facility. A resident may report a prohibited sexual act to any DCC employee.

When a DCC resident makes a claim to a DCC employee that he or she was the victim of a prohibited sexual act while being detained, incarcerated, or housed in a Non-DCC facility, the employee must immediately provide the offender with a copy of AD 07-11 Form 1, "Affidavit" to document the facts supporting the alleged sexual act. When the resident completes the affidavit, he/she is not required to complete an incident form. A completed form will be immediately forwarded in a confidential manner to the Internal Affairs Administrator for reporting to the entity where the alleged prohibited sexual act was to have occurred.

- b. Reporting a Prohibited Sexual Act that Occurred in a DCC Facility. A resident may report a prohibited sexual act verbally or in writing to any DCC employee.

- (1) If there is any possibility that forensic evidence may be collected, the employee to whom the alleged prohibited sexual act report is given must instruct the resident not to shower or otherwise clean him/herself, not to drink or brush his/her teeth if the assault was oral, not to remove any article of clothing, and not to take any other action that could damage or destroy evidence. If the victim has identified the alleged assailant, clothing from the assailant should be taken for forensic review. If the resident has already showered following the incident, a medical examination is still warranted and any articles of clothing worn during the assault by the victim should be collected for forensic review.
  - (2) The employee must notify the highest ranking supervisor on duty immediately, and write an incident report, as described in the incident reporting policy.
  - (3) Upon notice of an alleged prohibited sexual act, the supervisor must promptly notify the medical staff and arrange for the alleged victim to be medically examined. Medical staff will follow medical protocol including provisions for examination, documentation, transportation to the local hospital when appropriate, collection of evidence, testing for sexually transmitted diseases, counseling, as appropriate, follow-up, and mental health assessment.
  - (4) Following the medical examination, the supervisor must request the IAA to conduct an initial interview. The alleged victim may identify a staff member to be present during the initial interview. When considered appropriate, the Victim Support Person may also be present.
  - (5) The supervisor must assure physical separation (including housing) of the alleged resident victim and aggressor during the investigation.
- c. The supervisor must complete an incident report form and in addition to regular requirements for processing incident reports, send a copy, along with the resident's report and reports from others, directly to the Internal Affairs Administrator under "confidential" cover. Electronic reports may be sent by email.
  - d. The supervisor must follow guidance in the policy for "Reporting and Investigating Incidents and Hazards and notify the following people, promptly, (or when they return to duty): the Victim support person, Staff on Duty (SOD), treatment coordinator, chaplain and the shift supervisor on the next shift.
  - e. The supervisor will ensure evidence is collected and preserved, and the crime scene is preserved. If the investigation report substantiates the allegation of a prohibited sexual act, the DCC Internal Affairs Administrator will notify the director and forward a copy of the report to the Arkansas State Police for criminal investigation.

- f. The Resident Management Team will take appropriate actions regarding offender classification when presented with the alleged occurrence of prohibited sexual acts.

**C. Other DCC Offices/Staff.** If an incident of a prohibited sexual act while in some other level of custody (prison, community correctional facility, jail, treatment center, licensed transitional living facility, police or courthouse lockup) is alleged by an offender under DCC supervision to a DCC employee, the employee must take the following appropriate actions.

1. Parole/Probation Officers must immediately provide the offender AD 07-11 Form 1, "Affidavit" to record who, what, when, and how the alleged prohibited sexual act occurred. The completed form will be promptly forwarded under "confidential" cover directly to the Internal Affairs Administrator for reporting to the appropriate agency where the alleged prohibited sexual act was to have occurred. The supervision officer will make appropriate referral for services, i.e. medical examination, treatment, counseling.

Offenders may decline submitting or completing the affidavit. If an offender does not want to file an affidavit, the supervision officer must note in eOMIS under supervision contacts that the affidavit was provided and the offender declined to file the complaint. In addition, the supervising officer must contact the IAA and provide as much information regarding the incident as possible, including the offender's name, the alleged location(s) of the offense, dates and any names of the offending party, if known.

2. Counseling staff are not expected to violate their professional and ethical obligations regarding client confidentiality. Any offender that reports an alleged prohibited sexual act should be provided with AD 07-11 Form 1, "Affidavit" and the client should be strongly encouraged to submit that information to the PPO. With offender approval, counseling staff may accept and forward an affidavit and/or discuss the offender's information with the PPO. Consideration of whether counseling staff should disclose information obtained during a counseling session regarding an alleged prohibited sexual act will be made on a case-by-case basis.
3. Other staff receiving a report of an alleged prohibited sexual act should immediately provide the offender with AD 07-11 Form 1, "Affidavit" and forward that document directly to the IAA. If an offender declines to file an affidavit, the staff member must notify the supervising officer for the offender and have them make an entry into e-OMIS regarding the offender's report and declining the filing of an affidavit.

**D. Notices.** DCC Deputy Directors must ensure all DCC offices/facilities display the Rape Elimination, Sexual Abuse Notice (Attachment 1) in prominent places.

Attachment 1      Rape Elimination Sexual Abuse Notice  
Form 1              Affidavit

**Department of Community Correction (DCC)**  
**RAPE ELIMINATION,**  
**SEXUAL ABUSE NOTICE**

If you were sexually assaulted while confined in a local, state or federal jail, prison or residential facility, a DCC-licensed transitional housing facility, or while under Parole/Probation supervision, you may report that assault. If you choose to report the alleged assault, you must do the following:

1. Request a sexual misconduct "Affidavit" Form from an employee of a DCC correctional center, parole/probation or central office.
2. Complete the "Affidavit" form.
3. Give the "Affidavit" form to a DCC employee;

OR

Mail the "Affidavit" form to the following address:

Internal Affairs Administrator  
Dept. of Community Correction  
105 W. Capitol Avenue, 2nd floor  
Little Rock, Arkansas 72201-5731

4. Cooperate with department staff, they are trained to help you obtain counseling and prevent further abuse.

Reference: 45 United States Code §15601 et.seq., "Prison Rape Elimination Act of 2003"

DCC AD 07-11 Attachment 1

## AFFIDAVIT

Your Name: \_\_\_\_\_

Address: \_\_\_\_\_

City \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone Number: \_\_\_\_\_ Cell Phone Number: \_\_\_\_\_

Date or approximate date when alleged offense was committed:

\_\_\_\_\_  
Location where alleged offense was committed (be as specific as possible and include the name(s) of the prison or facility):

\_\_\_\_\_  
List any witnesses to the alleged offense (include contact information if available or last known location):

\_\_\_\_\_  
Write a DETAILED statement explaining what happened including the identity of any person(s) involved in committing the alleged offense, the identity of persons who were witnesses and/or person(s) to whom you reported the alleged offense prior to completing this report.

\_\_\_\_\_  
(Please attach additional pages if necessary)

I certify that the above statement is true and accurately reflects the incident I am reporting. Furthermore, I understand that by filing this affidavit the Arkansas State Police will investigate the allegation(s).

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(This affidavit may be submitted to any DCC staff or mailed directly to: Internal Affairs Administrator, DCC,  
105 West Capitol Avenue – 2<sup>nd</sup> Floor, Little Rock, AR 72201